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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TERRELL JONES and ROGER KELLY

Appeal 2008-006004
Application 09/990,779¹
Technology Center 2100

Before JAMES D. THOMAS, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ Filed on November 14, 2001. This application claims priority from provisional application 60/248,000, filed November 14, 2000. The real party in interest is Travelocity.com LP. (App. Br. 2.)

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's final rejection of claims 1 through 45. (App. Br. 2.)³ We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We affirm.

Appellants' Invention

Appellants invented a method and apparatus for processing user queries pertaining to travel itineraries in a relational travel database. (Spec. 8, para. [0029].)

Illustrative Claim

Independent claims 1, 13, 20, and 32 further illustrate the invention as follows:

1. A method for processing a query of a travel database, comprising:
 - receiving a selected arrival location and a selected departure location;
 - finding a set of desirable fares between the arrival location and the departure location;
 - constructing possible itineraries between the arrival location and the departure location associated with the desirable fares;
 - applying a set of rules to the possible itineraries;
 - querying an availability portion of the travel database for available travel units based upon the applied set of rules and the possible itineraries; and
 - displaying the available travel units in at least a portion of a calendar of a calendar-based user interface.
13. A calendar-based user interface for displaying query results from a database containing travel data comprising:

³ All references to the Appeal Brief are to the Appeal Brief filed on May 16, 2007, which replaced the prior Appeal Brief filed on March 20, 2006.

- a calendar showing a plurality of days corresponding to the query;
- an availability indicator for each of the plurality of days showing available itineraries relating to the query; and
- an applicability indicator for each of the plurality of days showing itineraries relating to the query which apply based on a set of rules and restrictions from travel providers.

20. A method for administering an availability portion of a relational travel database, comprising:

- receiving an availability message from a first travel provider;
- analyzing the availability message to determine one or more affected travel segments;
- querying a schedule portion of the relational travel database for the one or more affected travel segments; and
- writing a record to an availability portion of the relational database based on a status portion of the availability message if the one or more affected travel segments are found in the schedule portion of the relational database.

32. A method for processing a query of a travel database, comprising:

- receiving a selected arrival location and a selected departure location;
- finding a desirable fare between the arrival location and the departure location;
- constructing possible itineraries between the arrival location and the departure location associated with the desirable fare, the possible itineraries being for a plurality of days of at least one month;
- querying an availability portion of the travel database for available travel units for at least one day of the at least one month based upon the possible itineraries; and
- displaying a calendar-based user interface that includes a calendar displaying the dates that the desired fare is available.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Vance

6,442,526 B1

Aug. 27, 2002

Rejections on Appeal

The Examiner rejects the claims on appeal as follows:

Claims 1 through 45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Vance.

Appellants' Contentions

1. Appellants contend that Vance discloses a graphical user interface (“GUI”) that does not display travel units (e.g., available seats), but rather displays only components of a trip selected by a user. (App. Br. 7; Reply Br. 2.) Appellants also argue that Vance’s figure 14D depicts itineraries in a pop-up window, not a calendar. (App. Br. 7.) Further, Appellants allege that Vance’s figure 14A depicts an electronic calendar for travel planning, whereas the claimed invention utilizes a calendar to help a user identify the proper dates to travel in order to obtain a desired fare. (App. Br. 7-8; Reply Br. 2.) Therefore, Appellants contend that Vance does not teach “displaying the available travel units in at least a portion of a calendar of a calendar-based user interface,” as recited in independent claim 1. (*Id.*)

2. Appellants contend that Vance discloses a calendar that displays components of a trip planned by a user (e.g., reserved flight, hotel, and/or rental car), whereas the claimed invention displays both available fares for each day that relate to a query, and itineraries related to a query that apply based on a set of rules and restrictions from travel providers. (App. Br. 9; Reply Br. 3.) Further, Appellants argue that Vance’s figure 14E depicts an aircraft icon representing a flight booked by a user, and does not

teach an icon or other indicator for each of a plurality of days that shows available itineraries pertaining to a query. (Reply Br. 3-4.) Therefore, Appellants allege that Vance does not teach “an availability indicator for each of the plurality of days showing available itineraries relating to the query,” and “an applicability indicator for each of the plurality of days showing itineraries relating to the query which apply based on a set of rules and restrictions from travel providers,” as recited in independent claim 13. (App. Br. 9; Reply Br. 3-4.)

3. Appellants contend that Vance’s disclosure of a BargainFinderPlus feature that permits a user to search for flight prices lower than a selected flight does not teach a technique for “administering the availability portion of a relational travel database,” as recited in independent claim 20. (App. Br. 10.) Appellants also argue that, at best, Vance discloses that a user building an itinerary may search for flights and receive an indication of the availability of those flights. (Reply Br. 4-5.) Therefore, Appellants allege that Vance does not teach “receiving an availability message from a first travel provider,” “analyzing the availability message to determine one or more affected travel segments,” and “writing a record to an availability portion of the relational database,” as recited in independent claim 20. (App. Br. 10-11; Reply Br. 4-5.)

4. Appellants contends that Vance’s figure 14D depicts itineraries for a given departure/return date in a pop-up window, whereas the claimed invention displays fares in a calendar. (App. Br. 11.) Further, Appellants argue that Vance’s figures 14C and 14D depict itineraries for a given departure/return date selected by a user, not a desired fare in a calendar that shows all the dates that the fare is available. (App. Br. 11.) Appellants also

allege that Vance's disclosure of displaying seat preferences, special meals, frequent flier, etc. pertains only to an employee profile database, and does not explicitly indicate that such information is displayed. (Reply Br. 5-6.) Additionally, Appellants reiterate that Vance discloses displaying itineraries for a user based on a specific departure/return date combination, whereas the claimed invention is concerned with displaying a desired fare to a user and indicating all of the dates that the fare may be available. (App. Br. 11-12; Reply Br. 6.) Therefore, Appellants allege that Vance does not teach "displaying a calendar-based user interface that includes a calendar displaying the dates that the desired fare is available," as recited in independent claim 32. (*Id.*)

Examiner's Findings and Conclusions

1. The Examiner finds that Vance's disclosure of utilizing a GUI application to plan trips, wherein a potential traveler can select a new trip icon to energize or query trip itineraries, teaches displaying available travel units in a calendar-based user interface. (Ans. 8.)
2. The Examiner finds that Vance's figure 14E depicts a calendar that displays an availability indicator for each day on the calendar that shows available itineraries relating to a query. (*Id.*) The Examiner also finds that Vance's disclosure of a trip activity log and calendar with current events teaches a GUI that displays both a calendar and an availability indicator for each day that indicates available itineraries relating to a query. (*Id.*)
3. The Examiner finds that "administrating an availability portion of a relational travel database" is recited in the preamble and, therefore, is not entitled to patentable weight. (*Id.* at 9.) Nonetheless, the Examiner finds that Vance's disclosure of each corporation defining static tables, whereby

the system administrator inputs update travel policy data, exception codes, department information, etc., teaches administering a relational travel database. (*Id.*) Further, the Examiner finds that Vance's figures 14G depicts displaying a message which indicates the availability of an itinerary, analyzing the availability, and writing a record. (*Id.*) The Examiner also finds that Vance's figure 14H depicts displaying a message pertaining to an available flight in the side screen next to the calendar. (*Id.*)

4. The Examiner finds that Vance's disclosure of planning a trip utilizing a GUI, whereby a potential traveler can view and select a seat preference, special meals, etc., amounts to utilizing a calendar module to retrieve and book a trip. (*Id.* at 9-10.)

II. ISSUES

1. Have Appellants shown that the Examiner erred in finding that Vance anticipates independent claim 1? In particular, the issue turns on whether Vance teaches "displaying the available travel units in at least a portion of a calendar of a calendar-based user interface," as recited in independent claim 1.

2. Have Appellants shown that the Examiner erred in finding that Vance anticipates independent claim 13? In particular, the issue turns on whether Vance teaches:

(a) "an availability indicator for each of the plurality of days showing available itineraries relating to the query," as recited in independent claim 13; and

(b) “an applicability indicator for each of the plurality of days showing itineraries relating to the query which apply based on a set of rules and restrictions from travel providers,” as recited in independent claim 13.

3. Have Appellants shown that the Examiner erred in finding that Vance anticipates independent claim 20? In particular, the issue turns on whether Vance teaches:

(a) “administering an availability portion of a relational travel database,” as recited in independent claim 20;

(b) “receiving an availability message from a first travel provider,” as recited in independent claim 20;

(c) “analyzing the availability message to determine one or more affected travel segments,” as recited in independent claim 20; and

(d) “writing a record to an availability portion of the relational database,” as recited in independent claim 20.

4. Have Appellants shown that the Examiner erred in finding that Vance anticipates independent claim 32? In particular, the issue turns on whether Vance teaches “displaying a calendar-based user interface that includes a calendar displaying the dates that the desired fare is available,” as recited in independent claim 32.

III. FINDINGS OF FACT

The following Findings of Fact (“FF”) are shown by a preponderance of the evidence.

Vance

1. Vance generally relates to a travel and transportation information system and, in particular, to an integrated database system that

communicates with both credit card providers and travel planners. (Col. 1, ll. 13-17.)

2. Vance's figure 2 depicts a corporate travel planning and management system (38) that consists of a Travel Planning module (40), Travel Expense Reporting Module (38), and Travel Decision Maker (44). (Col. 4, ll. 41-44.) Vance discloses that the Travel Planning Module (40) receives and sends availability, fare, and booking data (46) to and from a Customized Reservation System ("CRS") (30). (*Id.* at ll. 44-46.)

3. Vance's figure 5 depicts a block diagram that represents the process of updating static tables (70). (Col. 6, ll. 35-39.) Vance discloses that in order to utilize the corporate travel planning and management system (38), each corporation defines the static tables (70) stored therein. (*Id.* at ll. 39-40.) In particular, Vance discloses that a system administrator inputs travel policy data (132), exception codes data (134), department information data (142), travel policy table (98), expense policy table (174), etc. (*Id.* at ll. 41-56.) Further, Vance discloses that each static table (70) is capable of adding new records, updating existing records, and deleting unused records. (*Id.* at ll. 56-58.)

4. Vance's figures 14A-14X depict various GUIs for the trip planning module (68). (Col. 11, ll. 41-44.) Vance discloses that a traveler (86) queries a trip plan by placing a cursor (360) on the New Trip icon (362). (*Id.* at ll. 44-45.) Vance discloses that the traveler (86) can utilize Flight Request-Segment 1 window (368) to select flight origination and destination data. (*Id.* at ll. 49-51.) Once the traveler (86) selects a flight from a list of flights in the Flight List Window (372), Vance discloses that a flight record is generated in both the Trip Activity Log (374) and the

Calendar (376). (*Id.* at ll. 51-54.) In particular, Vance's figure 14D depicts that the list of flights includes various criterion, including the company or corporate preference, personal preference, carrier, flight number, departure time and city, arrival time and city, stops, and status (e.g., available, sold out, or cancelled). (*See* fig. 14D.)

5. Vance's figures 14A-14X also depicts utilizing various GUIs to search for and select hotels and rental cars, whereby a record pertaining to the hotel and rental car selected is generated in both the Trip Activity Log (374) and the Calendar (376). (Col. 11, l. 60-col. 12, l. 5.)

IV. ANALYSIS

Claim 1

Independent claim 1 recites, in relevant part, "displaying the available travel units in at least a portion of a calendar of a calendar-based user interface."

We first consider the scope and meaning of the term "available travel units," which must be given the broadest reasonable interpretation consistent with Appellants' disclosure, as explained in *In re Morris*, 127 F.3d 1048 (Fed. Cir. 1997):

[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

Id. at 1054. *See also Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989) (stating that "claims must be interpreted as broadly as their terms reasonably allow.")

Appellants' Specification states that:

databases track the availability of travel units (e.g., seats, berths, rooms, compartments, rental cars, tickets, and the like), wherein an available travel unit is a travel unit that is available for sale.

(Spec. 2, para. [003].)

Our reviewing court states, “the ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005).

Upon reviewing Appellants' Specification, we find that the claimed term “available travel units” may be broadly, but reasonably construed as units available for sale, such as seats on a flight, hotel rooms, or rental cars.

As detailed in the Findings of Fact section above, Vance discloses a travel planning and management system capable of communicating with travel providers. (FF 1-2.) In particular, Vance discloses utilizing a trip planning module that employs various GUIs to search for available trip itineraries. (FF 4.) Vance discloses that a potential traveler can query flight itineraries, select a flight from a list of available flights, and record the selected flight in both a trip activity log and calendar. (*Id.*) Further, Vance discloses that a potential traveler can also query hotels and rentals cars, select an available hotel or rental car, and record each selection in both the trip activity log and calendar. (FF 5.)

We find that Vance's disclosure teaches searching, retrieving, and selecting flight itineraries, rental cars, and hotels available for sale and, subsequently, recording each selection in a calendar displayed on a GUI. Therefore, consistent with the definition adopted above, Vance's disclosure of selecting a flight, rental car, and hotel available for sale and displaying each selection in a calendar on the GUI amounts to “displaying the available

travel units in at least a portion of a calendar of a calendar-based user interface,” as recited in independent claim 1. It follows that Appellants have not shown that the Examiner erred in finding that Vance anticipates independent claim 1.

Claims 2, 5, 7, 8, and 11

Appellants do not provide separate arguments for patentability with respect to independent claim 7, and dependent claims 2, 5, 8, and 11. Therefore, we select independent claim 1 as representative of the cited claims. Consequently, Appellants have not shown error in the Examiner’s rejection of independent claim 7, and dependent claims 2, 5, 8, and 11, for the reasons set forth in our discussion of independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 3, 4, 6, 9, 10, and 12

Appellants do not set forth any substantive arguments, but rather make general allegations that Vance’s disclosure does not teach the language of dependent claims 3, 4, 6, 9, 10, and 12. (App. Br. 8; Reply Br. 2-3.) Appellants are reminded that a statement that merely points out what the claim recites will not be considered as an argument for separate patentability of a claim. *See* 37 C.F.R. § 41.37(c)(1)(vii). Therefore, Appellants’ arguments are unpersuasive. It follows that Appellants have not shown that the Examiner erred in finding that Vance anticipates dependent claims 3, 4, 6, 9, 10, and 12.

Claim 13

Independent claim 13 recites, in relevant part: 1) “an availability indicator for each of the plurality of days showing available itineraries relating to the query;” and 2) “an applicability indicator for each of the

plurality of days showing itineraries relating to the query which apply based on a set of rules and restrictions from travel providers.”

As detailed in the Findings of Fact section above, Vance discloses that the list of available flights includes various criterion, including departure time and city, arrival time and city, and status (e.g., available, sold out, or cancelled). (FF 4.) We find that Vance’s disclosure teaches determining whether a flight available for sale applies to a desired travel date and time and, further, whether the applicable fare is available, sold out, or cancelled. In particular, we find that based on inputting search parameters, such as a departure and arrival date and time, Vance discloses retrieving and displaying a flight available for sale that applies to that respective date and time. Thus, we find that Vance teaches “an availability indicator for each of the plurality of days showing available itineraries relating to the query,” as recited in independent claim 13.

Additionally, we find that based on inputting a departure and arrival date and time, Vance also discloses retrieving and displaying whether the applicable fare for that respective date and time is available, sold out, or cancelled. Thus, we find that Vance teaches “an applicability indicator for each of the plurality of days showing itineraries relating to the query which apply based on a set of rules and restrictions from travel providers,” as recited in independent claim 13. It follows that Appellants have not shown that the Examiner erred in finding that Vance anticipates independent claim 13.

Claims 14 through 19

Appellants do not provide separate arguments for patentability with respect to dependent claims 14 through 19. Therefore, we select

independent claim 13 as representative of the cited claims. Consequently, Appellants have not shown error in the Examiner's rejection of dependent claims 14 through 19 for the reasons set forth in our discussion of independent claim 13. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claim 20

Independent claim 20 recites, in relevant part:

1) administering an availability portion of a relational travel database; 2) receiving an availability message from a first travel provider; 3) analyzing the availability message to determine one or more affected travel segments; and 4) writing a record to an availability portion of the relational database.

First, we are not persuaded by Appellants' argument that Vance does not teach "administering an availability portion of a relational travel database," as recited in independent claim 20. (App. Br. 10.) In general, a preamble is construed as a limitation "if it recites essential structure or steps, or if it is 'necessary to give life, meaning, and vitality' to the claim." *Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002) (quoting *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999)). A preamble is not limiting, however, "'where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention.'" *Id.* (quoting *Rowe v. Dror*, 112 F.3d 473, 478 (Fed. Cir. 1997)); *See also*, *Symantec Corp. v. Computer Assocs. Int'l Inc.*, 522 F.3d 1279, 1288 (Fed. Cir. 2008). We find that the recitation "administering an availability portion of a relational travel database" does not recite any essential steps and, therefore, amounts to a mere statement of intended use. Accordingly, consistent with the cited precedents, such recitation is not entitled to

patentable weight since it is held only in the preamble and, further, it does not breathe life into the body of the claim.

Next, Vance discloses that the travel planning and management system works in conjunction with a CRS to send and receive availability, fare, and booking data. (FF 2.) Further, Vance discloses the process of updating static tables stored in the travel planning and management system. (FF 3.) In particular, Vance discloses inputting travel policy data, exception codes, department information, the expense policy table, etc. (*Id.*) Additionally, Vance discloses that each static table can add new records, update existing records, and delete unused records. (*Id.*)

We find that Vance's disclosure teaches adding, updating, and deleting records pertaining to travel information, such as availability, fare, and booking data, in the static tables stored in the travel planning and management system. In particular, we find that Vance's disclosure of adding and updating records pertaining to availability, fare, and booking data amounts to receiving availability or status information pertaining to potential travel itineraries, analyzing such information to determine affected travel legs or segments, and updating the corresponding static tables accordingly. Thus, we find that Vance teaches the disputed limitations. It follows that Appellants have not shown that the Examiner erred in finding that Vance anticipates independent claim 20.

Claims 21 through 31

Appellants do not provide separate arguments for patentability with respect to independent claim 26, and dependent claims 21 through 25 and 27 through 31. Therefore, we select independent claim 20 as representative of the cited claims. Consequently, Appellants have not shown error in the

Examiner's rejection of independent claim 26, and dependent claims 21 through 25 and 27 through 31, for the reasons set forth in our discussion of independent claim 20. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 32 through 45

Appellants offer the same arguments set forth in response to the rejection of independent claim 1 to rebut the rejection of independent claims 32 and 41, and dependent claims 33 through 40 and 42 through 45. (App. Br. 11-12; Reply Br. 5-6.) We have already addressed these arguments in our discussion of independent claim 1, and we found them unpersuasive. Consequently, Appellants have not shown that the Examiner erred in finding that Vance anticipates independent claims 32 and 41, and dependent claims 33 through 40 and 42 through 45.

V. CONCLUSION OF LAW

Appellants have not shown that the Examiner erred in rejecting claims 1 through 45 as being anticipated under 35 U.S.C. § 102(b).

VI. DECISION

We affirm the Examiner's decision to reject claims 1 through 45.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

Vsh

Appeal 2008-006004
Application 09/990,779

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000